

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Bystolic Antitrust Litigation

Case No. 1:20-cv-05735-LJL

This Document Relates To:

ALL ACTIONS

JOINT [REDACTED] STIPULATED SCHEDULING ORDER NO. 4

WHEREAS, upon review of the the Direct Purchaser Plaintiffs’ Third Consolidated and Amended Class Action Complaint, ECF No. 373; End-Payor Plaintiffs’ Second Consolidated Amended Class Action Complaint and Jury Demand, ECF No. 376; Walgreen Plaintiffs’ Third Amended Complaint and Demand for Jury Trial, *Walgreen Co. v. AbbVie Inc.*, No. 1:20-cv-09793, ECF No. 43; and CVS and Rite Aid Plaintiffs’ Third Amended Complaint and Demand for Jury Trial, *CVS Pharmacy, Inc. v. AbbVie Inc.*, No. 1:20-cv-10087, ECF No. 41 (the “Amended Complaints”), the Parties¹ agree that a new briefing schedule is warranted for any motions to dismiss the Amended Complaints;

NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE TO THE FOLLOWING SCHEDULE:

¹ “Plaintiffs” are (1) J M Smith Corporation d/b/a Smith Drug Company and KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc. (together, “Direct Purchaser Plaintiffs”); (2) Mayor and City Council of Baltimore; UFCW Local 1500 Welfare Fund; Teamsters Western Region & Local 177 Health Care Plan; Fraternal Order of Police, Miami Lodge 20 Insurance Trust Fund; Law Enforcement Health Benefits, Inc.; Teamsters Local No. 1150 Prescription Drug Benefit Plan; Teamsters Local 237 Welfare Fund; and Teamsters Local 237 Retirees’ Benefit Fund (collectively, “End-Payor Plaintiffs”); and (3) CVS Pharmacy, Inc., Rite Aid Corporation and Rite Aid Hdqtrs. Corp., Walgreen Co., The Kroger Co., Albertsons Companies, Inc. and H-E-B, L.P. (collectively, “Retailer Plaintiffs”).

“Defendants” are AbbVie Inc., Allergan, Inc., Allergan Sales, LLC, Allergan USA, Inc., Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd., Forest Laboratories Ireland, Ltd., Forest Laboratories, LLC, Hetero USA Inc., Hetero Labs Ltd., Hetero Drugs Ltd., Torrent Pharmaceuticals Ltd., Torrent Pharma Inc., Ascend Laboratories, LLC, Alkem Laboratories Ltd., Indchemie Health Specialties Private Ltd., Glenmark Generics Inc., USA (n/k/a Glenmark Pharmaceuticals Inc.), Glenmark Generics Ltd. (n/k/a Glenmark Pharmaceuticals Ltd.), Glenmark Pharmaceuticals S.A. (n/k/a Ichnos Sciences S.A.), Watson Laboratories, Inc. (NV), Watson Laboratories, Inc. (DE) (n/k/a Actavis Laboratories UT, Inc.), Watson Laboratories, Inc. (NY) (later known as Actavis Laboratories NY, Inc.), Watson Laboratories, Inc. (CT), Watson Pharma, Inc. (n/k/a Actavis Pharma, Inc.), Watson Pharmaceuticals Inc. (later known as Actavis, Inc.), Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., ANI Pharmaceuticals, Inc., Amerigen Pharmaceuticals, Inc., and Amerigen Pharmaceuticals, Ltd.

<u>EVENT</u>	<u>DEADLINE</u>
Defendants file Motion(s) to Dismiss the Amended Complaints	April 19, 2022
Plaintiffs file Opposition(s) to Motion(s) to Dismiss	May 23, 2022
Defendants file Repl(ies) in further support of Motion(s) to Dismiss	June 24, 2022

For the renewed motions, the parties have agreed to a minor revision of the page limits that applied to the motions previously considered by the Court, but the aggregate page count will be the same.

Submitted: March 4, 2022

/s/ Kimberly M. Hennings

Bruce E. Gerstein

Kimberly M. Hennings

GARWIN GERSTEIN & FISHER LLP

88 Pine Street, 10th Floor

New York, NY 10005

Tel.: (212) 398-0055

Fax: (212) 764-6620

bgerstein@garwingerstein.com

khennings@garwingerstein.com

/s/ Caitlin G. Coslett

David F. Sorensen (*pro hac vice*)

Caitlin G. Coslett (*pro hac vice*)

BERGER MONTAGUE PC

1818 Market Street, Suite 3600

Philadelphia, PA 19103

(215) 875-3000

dsorensen@bm.net

ccoslett@bm.net

*Counsel for Plaintiff J M Smith Corporation
d/b/a Smith Drug Company and interim co-lead
counsel for the Direct Purchaser Class*

/s/ Scott E. Perwin

Scott E. Perwin (*pro hac vice*)

Lauren C. Ravkind (*pro hac vice*)

Anna T. Neill (*pro hac vice*)

KENNY NACHWALTER P.A.

/s/ Robin A. van der Meulen

Robin A. van der Meulen

Gregory S. Asciolla

Matthew J. Perez

Veronica Bosco

LABATON SUCHAROW LLP

140 Broadway

New York, NY 10005

Tel: (212) 907-0700

Fax: (212) 818-0477

rvandermeulen@labaton.com

gasciolla@labaton.com

mperez@labaton.com

vbosco@labaton.com

/s/ Sharon K. Robertson

Sharon K. Robertson

Donna M. Evans (*pro hac vice*)

**COHEN MILSTEIN SELLERS & TOLL
PLLC**

88 Pine Street, 14th Floor

New York, NY 10005

Tel: (212) 838-7797

Fax: (212) 838-7745

srobertson@cohenmilstein.com

devans@cohenmilstein.com

Robert A. Braun

Jessica Weiner (*pro hac vice*)

Four Seasons Tower
1441 Brickell Avenue
Suite 1100
Miami, FL 33131
(305) 373-1000
sperwin@knpa.com
lravkind@knpa.com
aneill@knpa.com

Counsel for Plaintiffs Walgreen Co., The Kroger Co., Albertsons Companies, Inc. and H-E-B, L.P.

/s/ J. Mark Gidley

J. Mark Gidley
Peter J. Carney (pro hac vice)
Eric Grannon (pro hac vice)
Celia McLaughlin (pro hac vice)
Holly Letourneau (pro hac vice)
WHITE & CASE LLP
701 Thirteenth Street, NW
Washington, DC 20005-38007
Tel: (202)-626-3600
Fax: (212)-354-8113
mgidley@whitecase.com
pcarney@whitecase.com
egrannon@whitecase.com
cmclaughlin@whitecase.com
hletourneau@whitecase.com

Counsel for AbbVie, Inc., Allergan Inc., Allergan Sales LLC, Allergan USA, Inc. Forest Laboratories Inc., Forest Laboratories Holdings Ltd., Forest Laboratories Ireland, LTD., Watson Pharmaceuticals Inc. (later known as Actavis, Inc.)

/s/ Devora W. Allon

Devora W. Allon. P.C.
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Tel: (212)-446-5697
Fax: (212)-446-6460
devora.allon@kirkland.com

Jay P. Lefkowitz. P.C.

COHEN MILSTEIN SELLERS & TOLL PLLC

1100 New York Avenue, NW
Fifth Floor
Washington, D.C. 20005
Tel: (202) 408-4600
rbraun@cohenmilstein.com
jweiner@cohenmilstein.com

Co-Lead Counsel for the Proposed End-Payor Class

/s/ Alexander J. Egervary

Alexander J. Egervary
Barry L. Refsin (pro hac vice)
Chelsea M. Nichols (pro hac vice)
Caitlin V. McHugh (pro hac vice)
HANGLEY ARONCHICK SEGAL PUDLIN & SCHILLER
One Logan Square, 27th Floor
Philadelphia, PA 19103
(215) 568-6200
aegervary@hangle.com
brefsin@hangle.com
cnichols@hangle.com
cmchugh@hangle.com

Monica L. Kiley (pro hac vice)
Eric L. Bloom (pro hac vice)
HANGLEY ARONCHICK SEGAL PUDLIN & SCHILLER
2805 Old Post Road, Suite 100
Harrisburg, PA 17110-3676
(717) 364-1030
mkiley@hangle.com
ebloom@hangle.com

Counsel for Plaintiffs CVS Pharmacy, Inc., Rite Aid Corporation and Rite Aid Hdqtrs. Corp.

/s/ Christopher T. Holding

Christopher T. Holding (pro hac vice)
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210

KIRKLAND & ELLIS LLP

601 Lexington Avenue
New York, NY 10022
Tel: (212)-446-4970
Fax: (212)-446-4900
lefkowitz@kirkland.com

Counsel for Torrent Pharma, Inc.

/s/ Ahmed M.T. Riaz

Ahmed M.T. Riaz

SCHIFF HARDIN LLP

1185 Avenue of the Americas
Suite 3000
New York, NY 10036
(212)-753-5000
ariaz@schiffhardin.com

Suzanne L. Wahl (pro hac vice)

SCHIFF HARDIN LLP

350 S. Main St., Suite 210
Ann Arbor, MI 48104
(734)-222-1500
swahl@schiffhardin.com

*Counsel for Indchemie Health Specialties
Private Ltd., Alkem Laboratories Ltd., Ascend
Laboratories LLC*

/s/ Eileen M. Cole

Eileen M. Cole

John "Jay" Jurata, Jr. (pro hac vice)

James Tierney (pro hac vice)

**ORRICK, HERRINGTON & SUTCLIFFE
LLP**

Columbia Center
1152 15th Street, N.W.
Washington, DC 20005-1706
Tel: (202) 339 8400
Fax: (202) 339 8500
eileen.cole@orrick.com
jjurata@orrick.com
jtierney@orrick.com

*Counsel for Defendant ANI Pharmaceuticals,
Inc.*

Tel: (617)-570-1753

Fax: (617)-523-1231

cholding@goodwinlaw.com

*Counsel for Watson Pharma, Inc. (n/k/a
Actavis Pharma, Inc.), Watson Laboratories,
Inc. (NV), Watson Laboratories, Inc. (DE)
(n/k/a Actavis Laboratories UT, Inc.),
Watson Laboratories, Inc. (NY) (later known
as Actavis Laboratories NY, Inc.), Watson
Laboratories, Inc., (CT), Teva
Pharmaceutical Industries Ltd., Teva
Pharmaceuticals USA, Inc.*

/s/ Teresa T. Bonder

Natalie Christine Clayton

ALSTON & BIRD, LLP

90 Park Avenue
New York, NY 10016
Tel: (212)-210-9573
Fax: (212)-922-3845
natalie.clayton@alston.com

Teresa T. Bonder (pro hac vice)

ALSTON & BIRD, LLP

560 Mission Street, Ste. 2100
San Francisco, CA 94105
Tel: (415)-243-1000
Fax: (415)-243-1001
teresa.bonder@alston.com

Matthew D. Kent (pro hac vice)

Andrew Hatchett (pro hac vice)

ALSTON & BIRD, LLP

1201 W. Peachtree Street
Atlanta, GA 30309
Tel: (404)-881-7000
Fax: (404)-881-7777
matthew.kent@alston.com
andrew.hatchett@alston.com

*Counsel for Glenmark Generics, Inc., USA
n/k/a Glenmark Pharmaceuticals Inc.,
Glenmark Generics Ltd., and Glenmark
Pharmaceuticals Ltd.*

/s/ Tobias Snyder

Tobias Snyder
Marc Lewis
Newton Oldfather
LEWIS & LLEWELLYN LLP
601 Montgomery Street, Suite 2000
San Francisco, CA 94111
Tel: (415) 800-0590
Fax: (415) 390-2127
tsnyder@lewisllewellyn.com
mlewis@lewisllewellyn.com
noldfather@lewisllewellyn.com

*Counsel for Defendants Amerigen
Pharmaceuticals Ltd. and Amerigen
Pharmaceuticals Inc.*

/s/ Jonathan D. Janow


Jonathan D. Janow
Christopher B. Henry (pro hac vice
forthcoming)
**BUCHANAN INGERSOLL & ROONEY
PC**
1700 K Street, N.W., Suite 300
Washington, DC 20006-3807
Tel: (202) 452-6057
Fax: (202) 452-7989
jonathan.janow@bipc.com
christopher.henry@bipc.com

Abigail F. Coster
**BUCHANAN INGERSOLL & ROONEY
PC**
640 5th Avenue, 9th Floor
New York, NY 10019-6102
Tel: (212) 440-4419
Fax: (212) 440-4401
abigail.coster@bipc.com

*Counsel for Defendants Hetero Labs Ltd.,
Hetero Drugs Ltd., and
Hetero USA Inc.*

IT IS SO ORDERED.

Dated: March 7, 2022
New York, New York



LEWIS J. LIMAN
United States District Judge